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PRE-APPEAL BRIEF REQUEST FOR REVIEWDocket Number (Optional)
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on June 22, 2007

Signature

Typed or printed

name Sheri Fassi

Application Number

10/694,582

Filed

10/27/2003

First Named Inventor

Sandro David Klein

Art Unit

2612

Examiner

Brown, Vernal U.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

x

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

x

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.Registration number 35,906☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

SignatureGary R. Jarosik

Typed or printed name

(312) 456-8449

Telephone number

June 22, 2007

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.☐ *Total of _____ forms are submitted.

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REQUEST FOR PRE-APPEAL REVIEW

In the application claims 1-28 and 30-50 remain pending and stand finally rejected.

Pending claims 1-28 and 30-45 presently stand rejected under 35 U.S.C. § 102 as being anticipated by Van Ryzin (U.S. Patent No. 6,127,941) or under 35 U.S.C. § 103 as being rendered obvious by Van Ryzin as modified by one or more of Lin (U.S. Patent No. 6,633,281), Tigwell (U.S. Patent No. 5,227,780), Hashimoto (U.S. Patent No. 5,554,980), and Griseau (U.S. Patent No. 6,507,306).

Pending claims 46-50 presently stand rejected under 35 U.S.C. § 102 as being anticipated by Lin or under 35 U.S.C. § 103 as being rendered obvious by Lin as modified by Tigwell.

The withdrawal of these rejections and the allowance of the subject application is respectfully requested.

The claimed invention is directed to a controlling device having a device mode toggle feature. By way of example, page 11, lines 7+ of the subject application describes that a device mode toggle feature allows the controlling device to be toggled between various device mode states, e.g., a mode state in which the remote control is configured to issue commands to particular one(s) of a plurality of appliances controllable through use of the remote control, that, in the prior art, were attainable only via actuation of specific or dedicated device mode keys. By way of further example, page 13, lines 10+ of the subject application describes that a device mode toggle feature allows actuation of a single key of the controlling device to cause the controlling device to cycle through various device mode states, i.e., to sequentially assume each device mode state that is maintained within a list of device mode states that is stored within a memory of the controlling device.

Turning now to Van Ryzin, it is respectfully submitted that Van Ryzin is representative of the prior art and discloses nothing more than a remote control having dedicated device mode keys which are individually actuatable/selectable to place the remote control into a corresponding device mode state. In Van Ryzin, the remote control presents to a user a plurality of dedicated device mode state selectors, e.g., a TV icon, a CD player icon, a stereo icon, and the remote control is placed into a device mode state configuration, e.g., a device mode state configuration to control a TV, a CD player, or a stereo receiver, *solely as a function* of the one of the plurality of device modes state selectors ultimately selected by the user. (Col. 5, lines 20+). While the Examiner is correct in noting that, once the device of Van Ryzin is placed into a device mode state via actuation of a device mode state selector (e.g., by selecting the TV icon) the remote control will select functions pertaining to the selected device mode state (e.g., cause the remote control to issue commands to control channel functions of a TV), it is respectfully submitted that this disclosure within Van Ryzin does not equate to nor has any relevance to the claimed programming within a controlling device responsive to a receipt of an input for selecting, as a function of at least one of a one of the plurality of device mode states (e.g., TV, VCR, Aux, etc.) the controlling device is in at a time the input is received and a one of the plurality of device mode states (e.g., TV, VCR, Aux, etc.) the controlling device was placed into a last time the input was received, one of a subset of a plurality of device mode states (e.g., TV, VCR, Aux, etc.) to thereby be used as the configuration for the controlling device. For at least this reason it is respectfully submitted that Van Ryzin fails to anticipate or render obvious, considered alone or in combination with remaining references of record, the invention recited in any of claims 1-28 and 30-45.

Considering now Lin, it is respectfully submitted that, like Van Ryzin, Lin discloses nothing more than a remote control having dedicated device mode keys which are individually actuatable/selectable to place the remote control into a corresponding device mode state. In Lin, the remote control again presents to a user a plurality of dedicated device mode state selectors, e.g., a TV icon, a SAT icon, a DVD icon, and the remote control is placed into a device mode state configuration, e.g., a device mode state configuration to control a TV, a SAT receiver, a DVD player, *solely as a function* of the one of the plurality of device modes state selectors ultimately selected by the user. (Col. 4, lines 42-49). While the Examiner is correct in noting that Lin also discloses that the remote control may include macro keys which, when actuated, will cause the remote control to execute a series of functions that have been previously programmed into the remote control, i.e., programmed into the remote control prior to the macro key ever being activated, (Col. 4, lines 60-62; Col. 2, lines 10-22), it is respectfully submitted that this disclosure within Lin does not equate to nor has any relevance to the claimed controlling device method that responds to a receipt of an input used to change a remote control from a first device mode state to a second device mode state by placing the remote control into the second device mode state and storing data indicative of the first device mode state, i.e., the device mode state just left, whereby a subsequent activation of a device mode state toggle key allows for the return of the remote control to that saved, first device mode state. Similarly, it is respectfully submitted that this disclosure within Lin does not equate to nor has any relevance to the claimed controlling device method that stores in memory a circular list of device mode states whereby activation of a single device mode state toggle key is used to place the controlling device into a device mode state as indicated by a current position within the circular list of device mode states. For at least these reasons it is respectfully submitted that Lin fails to anticipate or render obvious,

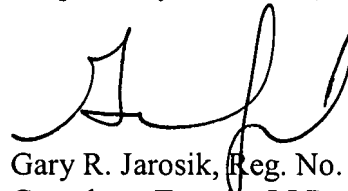
considered alone or in combination with remaining references of record, the invention recited in any of claims 46-50.

CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the reviewing panel is respectfully requested.

Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, it is respectfully requested that the attorney undersigned be contacted.

Respectfully Submitted;

A handwritten signature in black ink, appearing to be 'G. Jarosik', written over the printed name.

Date: June 22, 2007

By: Gary R. Jarosik, Reg. No. 35,906
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